



CITY OF VALLEJO
POLICE DEPARTMENT

111 AMADOR STREET • VALLEJO • CALIFORNIA • 94590-6301 • (707) 648-4321 • FAX (707) 648-4490

To: Requester
From: Captain Horton *LAH 543*
Date: March 8, 2019
Re: Status of Providing Records Available under SB 1421

You are receiving this message because you have requested, at least in part, available records from 2014 to the present related to the following now available under Penal Code section 832.7(b):

- (A) A record relating to the report, investigation, or findings of any of the following:
- (i) An incident involving the discharge of a firearm at a person by a peace officer or custodial officer.
 - (ii) An incident in which the use of force by a peace officer or custodial officer against a person resulted in death, or in great bodily injury.
- (B) (i) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public.
- (ii) As used in this subparagraph, "sexual assault" means the commission or attempted initiation of a sexual act with a member of the public by means of force, threat, coercion, extortion, offer of leniency or other official favor, or under the color of authority. For purposes of this definition, the propositioning for or commission of any sexual act while on duty is considered a sexual assault.
- (iii) As used in this subparagraph, "member of the public" means any person not employed by the officer's employing agency and includes any participant in a cadet, explorer, or other youth program affiliated with the agency.
- (C) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency of dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

The City has been diligently researching its records to gather responsive documents and prepare them for production. While this process is ongoing, the City intends to provide documents on a rolling basis as the documents become available for release. Please note that once the documents are gathered, they must be reviewed and redacted in accordance with Penal Code section 832.7(b)(5)-(6). These sections provide:

(5) An agency shall redact a record disclosed pursuant to this section only for any of the following purposes:

(A) To remove personal data or information, such as a home address, telephone number, or identities of family members, other than the names and work-related information of peace and custodial officers.

(B) To preserve the anonymity of complainants and witnesses.

(C) To protect confidential medical, financial, or other information of which disclosure is specifically prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct and serious use of force by peace officers and custodial officers.

(D) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the peace officer, custodial officer, or another person.

(6) Notwithstanding paragraph (5), an agency may redact a record disclosed pursuant to this section, including personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosure of the information.

All the documents that will be produced today have been redacted in accordance with the above provisions.

On March 8, 2019, the City is releasing the following materials:

1. Officer Involved Shooting Category [832.7(b)(1)(A)(i)].

Complete Police Reports, with redactions described above, along with any findings from the related District Attorney's Office for three of the four shootings in 2017. Additional documents will be released on a rolling basis upon gathering and legal review in the categories required by Penal Code section 832.7(b)(2).

VPD Case No. 17-970

Date of incident: January 23, 2017

Involved Person: Angel Ramos

Officer(s): Vallejo Police Officer Zach Jacobsen

VPD Case No. 17-9795

Date of Incident: July 8, 2017

Involved Person: Victor Hurtado

Officer(s): Vallejo Police Officer Jarrett Tonn

VPD Case No. 17-8723

Date of Incident: August 2, 2017

Involved Person: Jeffrey Barboa

Officer(s): Vallejo Police Officers: Stephanie McDonough, Jake Estrada, Matt Komoda, David McLaughlin, and Zach Jacobsen

The remaining shooting of 2017 (VPD Case No. 17-7037, Date of Incident: 05/31/2017, Vallejo Police Officers: Jarrett Tonn, Sean Kenney, Keven Barreto, and Jared Jaksch) is still in process for review and redaction.

2. Use of Force by Police Officer Resulting in Death or Great Bodily Injury, [832.7(b)(1)(A)(ii)].

An inventory of 2018 incidents falling into this category has been created and is being released.

SB 1421 does not define "great bodily injury". Therefore, in determining responsive records, the City defines "great bodily injury" to mean "a significant or substantial physical injury", which is separate and distinct from a serious bodily injury, and which for purposes of this response, constitutes a more severe injury than a serious bodily injury. (See e.g., *People v. Taylor* (2004) 118 Cal.App.4th 11, 24-25.) We expect to continue our inventory process for years prior to 2018 and then commence with the gathering and reviewing of pertinent records in those categories. We appreciate your patience as this particular category requires extensive manual searches of records to ensure that all instances of use of force resulting in GBI are accounted for.

3. Sustained Finding of Sexual Assault defined by 832.7(b)(1)(B).

The complete report for IA 2013-03 is being released. This incident is related to the termination of Officer Chase Calhoun from the Vallejo Police Department. Information has been redacted within Attachments 1 – 4 pursuant to Government Code § 6255(a). These exhibits contained complete staffing schedules and details, and releasing this information could present officer safety issues and jeopardize sensitive and/or confidential nature of their assignments. As a result, the public interest in this information is outweighed by the particularly important need to keep the staffing schedules confidential at this time.

Please note that we have located 15 audio files, and one 1 video file, which are interviews. All of the interviews were transcribed, and the transcripts are part of the documents being released. However, if any member of the public would like a copy of the actual audio/video interviews, please advise and we will provide an estimate of those costs. Those files have to be reviewed and redacted, in accordance with the above redaction provisions. You will be required to pay for those extraction costs before we will produce the publicly available portions. (See Gov. Code § 6253.9(b)(2).)

There are no other responsive incidents.

4. Sustained Finding of Dishonesty defined by 832.7(b)(1)(C)

As previously reported, no responsive documents exist.

Please note that the records released today are part of a rolling production and the City will continue gathering/reviewing/redacting responsive documents. Please also note that there are also electronic records that are subject to the same redactions/withholding as identified above. To extract the portions of the record subject to public disclosure, the City estimates it will take City staff 4-5 hours for every hour of video with audio recording to extract the information subject to public disclosure. The cost to redact will be charged at the actual hourly cost of staff time. If you are interested in obtaining redacted copies of these recordings, we will let you know which incidents have video and the anticipated cost of redaction as we continue our review. The City also can assist you in narrowing the scope of your request if you would like assistance.